

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2019/2020

UIB2612 – ISLAMIC BANKING AND FINANCE LAW (All Sections / Groups)

25 OCTOBER 2019

Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)

Answering Time: 9.00 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages (excluding cover page) with 5 Questions only.
3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
 - i. Islamic Financial Services Act 2013 (Act 759) ; and
 - ii. Central Bank of Malaysia Act 2009

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited

5. Please write all your answers in the Answer Booklet provided.

PART A (COMPULSORY)

ANSWER ALL QUESTIONS.

QUESTION 1

Syarikat Daya Maju Sdn Bhd, a construction company had recently approached the bank you are working with to ask about types of financing available for them to undergo a housing development project. They are in need of a huge fund to purchase the machineries for the purpose of the project. As an officer in charge, you are assigned by your manager to brief the company members on financing facility available, which is based on the concept of *Murabahah*.

- (a) Explain in detail *Murabahah* financing including its pillars and conditions and how this method can be applied in the Company's project.

(15 marks)

- (b) Apart from property purchase financing, personal financing is the other type of financing which applies the concept of Commodity *Murabahah* (*Tawarruq*). Explain.

(10 marks)

(Total: 25 marks)

QUESTION 2

- (a) One of the most popular products for investment in Islamic Financial Institution (IFI) is the operation of Fixed Deposit (FD). This investment scheme is different from conventional banks where it is based on the concept of *Mudharabah* and *Musharakah*.

Discuss how it operates.

(18 marks)

- (b) Explain the concept applied in Savings Account-i.

(7 marks)

(Total: 25 marks)

Continued...

PART B

Answer any **two (2)** questions.

QUESTION 3

“Takaful is structured around the concept of donation – the cornerstone of charity and philanthropy. However, it is a special kind of charity that makes the donor a potential beneficiary of the donation itself, as is the case with takaful. Therefore, it is interesting to study this phenomenon in order to determine consequences and implications for using it as a tool for organized charity and its management for the benefit of targeted social groups”

(Global Islamic Finance Report (2012) Ch.18)

Based on the above statement, it is understood that Takaful is created to replace the Conventional Insurance, being the security tool in banking system. It is modeled mainly to eliminate the elements prohibited by the Shariah.

Explain in detail how those elements could be eliminated through this new Islamic insurance model, as a replacement to the Conventional Insurance. Your discussion should include the concepts applied in the new Takaful Operation so as to make it permissible in the eyes of Shariah.

(25 marks)

QUESTION 4

“We agree that the SAC has been harmonising the proliferation of Shariah opinions in the industry since its inception. It has already accustomed to the practical considerations at hand and the need for certainty in the industry on Islamic banking principles. Therefore, the binding nature of the ruling of the SAC is justified as section 56 of the 2009 Act was enacted on the reason of conserving and protecting the public interest.”

(JRI Resources Sdn Bhd v Kuwait Finance House (M) Bhd (President of Association of Islamic Banking Institutions Malaysia & Anor, interveners) [2019] 3 MLJ 561)

Examine the issues in the above mentioned case and evaluate the roles and functions of Shariah Advisory Council in Islamic Banking Dispute. Your answers must be supported by relevant provisions and case law.

(25 marks)

Continued...

QUESTION 5

“Islamic banking and finance is not only subject to the Shariah laws but also governed by the federal laws passed by the Parliament such as the contract law, land law, company law and other laws of general application.”

(Islamic Finance Litigation: Problems within the Malaysian Civil Courts Structure (2016))

Critically discuss on the competent court and its jurisdiction to adjudicate Islamic financial disputes and the structural problems exist within that court system. Your discussion shall make reference to the relevant provisions and legal cases.

(25 Marks)

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